IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

Crl. MC.No. 1195 of 2004(C)

CC.510/2003 of CHIEF JUDL.MAGISTRATE, ERNAKULAM
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PETITIONER: 3RD ACCUSED

M.RAMAN, EXECUTIVE ENGINEER (RETD),
INSURANCE SURVEYOR, LOSS ASSESSOR AND VALUER,
OLD THEVARA ROAD, KOCHI-682 016.

BY ADV. SRI.M.P.RAMACHANDRAN NAIR
SRI. DEVAN RAMACHANDRAN
SRI.SUMESHKUMAR
SMT.ASHA MOHAN
SMT.POOJA SURENDRAN

RESPONDENTS: STATE AND COMPLAINANT
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1. THE STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. DHANALAKSHMI BANK LIMITED, REPRESENTED
BY SRI.K.K.RANGANATHAN, ASSISTANT GENERAL
MANAGER AND PRINCIPAL OFFICER, DHANALAKSHMI BANK
SHANMUGHOM ROAD, ERNAKULAM BRANCH.

BY ADV. SRI. PUZHAKKARA MUHAMMED, PUBLIC PROSECUTOR
SRI.S.RAJEEV

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. M.C. NO. 1195 OF 2004

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Dated this the 30th day of January 2007

O R D E R

The petitioner, who is the 3rd accused in C.C. No. 510/2003 in the file of Chief Judicial Magistrate, Ernakulam, has sought for setting aside the proceedings initiated against him under sections 120-B, 417,418 and 420 r/w 34 of the Indian Penal Code. The allegation is that the complainant - bank initiated the above proceedings alleging that the petitioner/3rd accused induced the complainant-bank by suppression of facts and wilful misrepresentation to accept 4.09 acres of landed property as collateral security and granted credit facility to the 1st and 2nd accused accepting the said property as security. It is the contention of the petitioner/3rd accused that the only allegation against him is that he introduced the 1st and 2nd accused to the complainant-bank and the petitioner stated that he had occasion to inspect the above said property in connection with the

advances given by the State Bank of Sourashtra to the companies of the 1st and 2nd accused and that the property would easily fetch an amount of Rs. 366 lakhs. It is the case of the petitioner/3rd accused that he was not in any manner connected with the transaction. It is pointed out that complainant-bank had employed the 4th accused as its valuer and obtained a valuation certificate from the 4th accused. It is pointed out that the petitioner/3rd accused was never asked by the complainant to submit a valuation report of the above said property nor had he valued the property for the complainant-bank. It is also submitted that the petitioner/3rd accused has not introduced the 1st and 2nd accused to the complainant-bank. Hence, he has sought for getting quashed the proceedings initiated against him vide C.C. 510/2003 in the file of Chief Judicial Magistrate, Ernakulam.

2. Annexure A is the copy of the complaint filed by the 2nd respondent/complainant. I find that it mentioned in the complaint that the 3rd accused/petitioner and the 4th accused are

approved valuers of the complainant-bank. It is further mentioned in Annexure A that it was 3rd accused/petitioner who had introduced the 1st and 2nd accused to the complainant and he confirmed what the 1st and 2nd accused, the principal debtors told about the property. It is also recited in the complaint that in addition, in an effort to convince the complaint about the worth of the property, the 3rd accused stated that he himself had occasion to inspect and value the property in connection with the advances given by the State Bank of Sourashtra to the companies of the 1st and 2nd accused and that the property would easily fetch Rs. 366 lakhs. Subsequently it was found that the property that constituted collateral security and for which it was represented a sum of Rs. 366 lakhs can be fetched, was not marketable and that it is not even a single plot, but 4 tiny plots scattered in the middle of a swamp and the major portion of the plot was found excavated and the earth removed for brick manufacturing. It is submitted that the value of the property is negligible. It is the contention of the petitioner/3rd accused that

the above allegations are hardly sufficient to constitute ingredients of the offence alleged.

3. I find that, on a consideration of the averments in Annexure A-complaint, the proceedings against the petitioner/3rd accused is not liable to be quashed invoking inherent jurisdiction of this court. All the same the petitioner/3rd accused may, at the appropriate stage, apply for discharge before the court below.

The Crl. M.C. is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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